

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

AGENCY INSURANCE COMPANY OF  
MARYLAND,

Plaintiff,

v.

PLACIDA PAULINO and IDALIS  
PAULINO,

Defendants.

CIVIL ACTION NO. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY JUDGMENT**

**Introduction**

This action seeks Declaratory Judgment from this Honorable Court with respect to the rights and duties of Agency Insurance Company of Maryland and Placida Paulino and Idalis Paulino under a policy of automobile insurance issued by Agency Insurance Company of Maryland to Placida Paulino on February 4, 2020.

**I. THE PARTIES**

1. Agency Insurance Company of Maryland (hereinafter “Agency”) is a company duly authorized to issue automobile insurance policies in the Commonwealth of Pennsylvania and is organized under the laws of the State of Maryland with its principal place of business located at 7450 Coca Cola Drive, Hanover, Maryland 21076.

2. Defendant, Placida Paulino is an adult individual with an address of 201 Maple Lane, East Stroudsburg, Pennsylvania.

3. Defendant, Idalis Paulino is an adult individual with an address of 201 Maple Lane, East Stroudsburg, Pennsylvania.

## **II. JURISDICTION**

4. This matter is a Declaratory Judgment action pursuant to 28 U.S.C. § 2201 and 2202 based upon a contract of automobile insurance issued by Agency to Placida Paulino for personnel automobile coverage.

5. More specifically, this action deals with the alleged entitlement of Idalis Paulino to First Party Medical Benefit in the amount of \$10,000 and Underinsured Motorist (“UIM”) Benefits in the amount of \$100,000 under that policy.

6. Jurisdiction is founded upon diversity of citizenship, pursuant to 28 U.S.C. 1332(a) since there is complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000, exclusive of interest and costs.

7. An actual controversy of a justifiable nature exists between Agency and Defendants involving the rights and obligations of the parties under the policy of insurance and dependent upon the construction of said contract of insurance, and the controversy may be determined by a judgment of this suit.

8. All other identifiable persons or entities who have or claim an interest in the matters in this controversy or who would be affected by the declarations made by this Court have been made a party to this action.

## **III. FACTS**

9. On February 3, 2020, Placida Paulino applied to Agency seeking a policy of personal automobile insurance. See Signed Application attached hereto as **Exhibit A**.

10. As part of that application, Placida Paulino was listed as the only driver and household resident, defined as the “applicant, spouse, all other household residents over the age

of 14, all regular drivers of the vehicles listed on this application, and all children who live away from home who even occasionally drive the vehicles.” Id.

11. On February 4, 2020, Agency issued to Placida Paulino a policy of personal automobile insurance bearing policy number AU0504441. See Declarations Page attached hereto as **Exhibit B**.

12. Policy AU0504441 provided First Party Medical Benefit in the amount of \$10,000 and UIM Benefits in the amount of \$100,000/per individual, \$300,000/per accident. Id.

13. On June 9, 2020 Idalis Paulino, adult daughter of Placida Paulino, was residing at 228 Schaefer Street, Brooklyn, New York when she was involved in a motor vehicle accident while a passenger in a vehicle operated by her friend Marlon Hudson on Linden Boulevard in Brooklyn, New York. See Lease attached hereto as **Exhibit C**; and Police Report attached hereto as **Exhibit D**.

14. Idalis Paulino sustained various injuries which resulted in her being hospitalized for two different periods of time in June 2020.

15. On or about August 28, 2020 State Farm, insurer of Marlon Hudson, tendered its liability limits of \$25,000 to Idalis Paulino.

16. Idalis Paulino subsequently made demand to Agency for First Party Medical Benefit and UIM Benefit under policy AU0504441.

17. Section II of the insuring agreement for policy AU0504441 provides that Agency will pay the First Party Medical Benefit, in accordance with the Pennsylvania Motor Vehicle Financial Responsibility Law, “for an **insured** who sustains **bodily injury** caused by an **accident** arising out of the maintenance or use of a **motor vehicle**.” See Policy of Insurance Attached hereto as **Exhibit E**.

18. Section IV of the insuring agreement for policy AU0504441 provides:

Subject to the Limits of Liability, if **you** pay the premium for Underinsured Motorist Coverage, **we** will pay compensatory damages, other than punitive or exemplary damages, which an **insured** is legally entitled to recover from an owner or operator of an **underinsured motor vehicle** because of bodily injury:

- 1 sustained by an **insured**; and
- 2 caused by an **accident**.

Id.

19. The policy defines “insured” in both Section II and Section IV as:

1. **you** or any **family member**;

Id.

20. The “Definitions” section of the policy on page 2 defines “family member” as “a person related to **you** by blood...whose primary residence is in **your** household...” Id.

21. Agency has no obligation to provide either First Party Medical Benefit or UIM benefit to Idalis Paulino under policy AU0504441 as she was not a resident of Placida Paulino’s household at the time of the accident on June 9, 2020.

22. Agency seeks a declaration from this Honorable Court to formalize its denial of UIM benefits to Idalis Paulino under policy AU0504441 for injuries sustained in the accident of June 9, 2020.

**COUNT I**  
**Declaratory Judgment – Agency Has No Duty to Provide**  
**First Party Medical Benefit to Idalis Paulino**

23. Agency repeats and incorporates the foregoing allegations as if set forth fully herein.

24. Idalis Paulino was a resident of 228 Schaefer Street, Brooklyn, New York on June 9, 2020.

25. Agency is not obligated to provide First Party Medical Benefit to Idalis Paulino under policy AU0504441 for injuries sustained in the accident of June 9, 2020 because Idalis Paulino was not a resident of the household of its insured Placida Paulino pursuant to the terms of the policy at the time of the accident.

26. Whether Agency is obligated to provide First Party Medical Benefit to Idalis Paulino related to the accident of June 9, 2020 the subject of dispute between Agency and Idalis Paulino and Placida Paulino.

## **COUNT II**

### **Declaratory Judgment – Agency Has No Duty to Provide UIM Benefits to Idalis Paulino**

27. Agency repeats and incorporates the foregoing allegations as if set forth fully herein.

28. Idalis Paulino was a resident of 228 Schaefer Street, Brooklyn, New York on June 9, 2020.

29. Agency is not obligated to provide UIM Benefit to Idalis Paulino under policy AU0504441 for injuries sustained in the accident of June 9, 2020 because Idalis Paulino was not a resident of the household of its insured Placida Paulino pursuant to the terms of the policy at the time of the accident.

30. Whether Agency is obligated to provide UIM Benefit to Idalis Paulino related to the accident of June 9, 2020 the subject of dispute between Agency and Idalis Paulino and Placida Paulino.

**WHEREFORE**, Plaintiff, Agency Insurance Company of Maryland, respectfully requests that this Honorable Court enter an Order declaring the following:

- A. Agency is not obligated under the policy of insurance AU0504441 to provide First Party Medical Benefit to Idalis Paulino in connection with the accident which occurred on June 9, 2020 in Brooklyn, New York;
- B. Agency is not obligated under the policy of insurance AU0504441 to provide Underinsured Motorist Benefit to Idalis Paulino in connection with the accident which occurred on June 9, 2020 in Brooklyn, New York; and
- C. That Agency is entitled to such other relief as this Court deems just and proper.

Respectfully submitted,

**POST & SCHELL, P.C.**

By: s/ Kevin T. McGarry

Dated: April 27, 2021

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